

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

ARNOLD ABRERA,

Plaintiff,

v.

GAVIN NEWSOM, et al.,

Defendants.

No. 2:22-cv-01162-DAD-SCR

ORDER GRANTING DEFENDANTS'  
MOTIONS TO DISMISS AND GRANTING  
PLAINTIFF LEAVE TO AMEND

(Doc. Nos. 81, 82, 83)

This matter is before the court on the motion to dismiss plaintiff's second amended complaint filed on behalf of defendants Anne Marie Schubert and County of Sacramento and the motion to dismiss plaintiff's second amended complaint filed on behalf of defendants Gavin Newsom and Rob Bonta, both filed on March 11, 2024. (Doc. Nos. 81, 83.) In addition, on March 11, 2024, defendants Bobby Davis, Jonathan P. Hobbs, and City of Elk Grove filed a notice of joinder in the motion to dismiss filed on behalf of defendants Anne Marie Schubert and County of Sacramento. (Doc. No. 82.) On April 16, 2024, the pending motions were taken under submission on the papers. (Doc. No. 89.) For the reasons explained below, the pending motions to dismiss will be granted. Plaintiff will be granted further leave to amend.

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## BACKGROUND

2 Plaintiff filed his operative second amended complaint (“SAC”) on February 13, 2024,  
3 broadly alleging that defendants’ specified and unspecified policies, as well as a wide variety of  
4 specified and unspecified California statutes and regulations, violate the Second Amendment.  
5 (Doc. No. 77.) In his SAC, plaintiff alleges as follows.<sup>1</sup>

Defendant Gavin Newsom is the governor of California. (*Id.* at ¶ 11.) Defendant Rob Bonta is the Attorney General of California. (*Id.* at ¶ 12.) According to plaintiff, defendant City of Elk Grove and its city attorney, defendant Jonathan P. Hobbs, as well as Sacramento County District Attorney defendant Anne Marie Schubert<sup>2</sup>, have “endorsed and followed Newsom and Bonta’s gun confiscation and enforcement regime going after law abiding gun owners through both the civil and criminal process.” (*Id.* at ¶¶ 20, 22, 23.) Defendant Bobby Davis is the chief of police of the Elk Grove police department. (*Id.* at ¶ 21.)

13 Plaintiff owned a rifle that is classified as an “assault weapon” under California law. (*Id.*  
14 at ¶ 6.) Plaintiff wishes to use “large-capacity” magazines. (*Id.* at ¶ 7.) Plaintiff also wishes to  
15 acquire a particular type of rifle but fears prosecution under unspecified California “laws . . .  
16 policies, practices, and customs.” (*Id.* at ¶ 8.) Plaintiff seeks a judicial declaration that various  
17 specified California statutes and regulations, as well as defendants’ unspecified “policies,  
18 practices, and customs,” violate the Second Amendment. (*Id.* at ¶ 49.)

<sup>1</sup> Plaintiff's allegations in his SAC span over 40 pages and nearly 300 paragraphs, many of which are vague to the point of being conclusory. (*See, e.g.*, Doc. No. 77 at ¶¶ 88 ("The amalgamation of these factors—unjustified legal prosecution based on arbitrary features, failure to adhere to statutory protocols for property return, and the overarching challenges in vindicating one's legal rights—collectively show a systemic system of enforcement necessitating judicial oversight."); 104 ("Plaintiff is also seeking to enjoin the State of California from enforcing the tapestry of firearm laws in general . . . ."))). Certain sections of plaintiff's SAC provide background information that appears to have no bearing on any of plaintiff's claims, while others do not include factual allegations at all but are instead purported summaries of constitutional amendments or decisions from district courts and the Ninth Circuit. (*See, e.g.*, Doc. No. 77 at ¶¶ 42–48; 107–08.) In this background section, the court recounts an abbreviated summary of plaintiff's most relevant allegations as best it can.

<sup>27</sup> The court notes that defendant Schubert was the Sacramento County District Attorney from  
<sup>28</sup> 2014 until January 2, 2023. Since that time, Thien Ho has served as the District Attorney of  
Sacramento County.

1           In his SAC, plaintiff also alleges as follows. On December 27, 2020, officers of the Elk  
 2 Grove police department responded to a 911 call originating from plaintiff's residence. (*Id.* at  
 3 ¶ 56.) Officers entered plaintiff's home without a warrant. (*Id.*) Plaintiff's wife was detained  
 4 pursuant to an involuntary psychiatric hold pursuant to California Welfare and Institutions Code  
 5 § 5150. (*Id.*) Six firearms owned by plaintiff and his wife were then seized from plaintiff's  
 6 residence pursuant to California Welfare and Institutions Code § 8102.<sup>3</sup> (*Id.* at ¶¶ 57–60.)  
 7 Plaintiff alleges this seizure was wrongful because his wife did not have possession of the  
 8 firearms at the time, given that the firearms were in locked safes located next to plaintiff's side of  
 9 the bed. (*Id.* at ¶ 61.)

10           On January 25, 2021, a “Petition for Judicial Determination Re: Return of Firearms” was  
 11 filed by defendant Jonathan P. Hobbs in his role as city attorney for defendant City of Elk Grove.  
 12 (*Id.* at ¶ 63.) “An arrest warrant for plaintiff was requested on or after January 29, 2021,” on the  
 13 grounds that two of the seized firearms were “unregistered bullet button rifles” and had certain  
 14 characteristics, including the lack of fixed magazines. (*Id.* at ¶ 62.) On March 18, 2021,  
 15 defendant district attorney Anne Marie Schubert filed a felony criminal complaint against  
 16 plaintiff “because of cosmetic features completely unrelated to the actual functioning of the  
 17 rifle[s].” (*Id.* at ¶ 66.) This criminal case brought against plaintiff was subsequently dismissed.  
 18 (*Id.* at ¶ 71.) Plaintiff filed a motion for return of property pursuant to California Penal Code  
 19 § 1538.5, which was denied by an unspecified court. (*Id.* at ¶ 73.)

20           In his SAC, plaintiff asserts 16 claims against the various defendants, all for violations of  
 21 the Second Amendment, on the following bases:<sup>4</sup> (1) an “as-written” challenge<sup>5</sup> to the “state ban

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22           <sup>3</sup> Section 8102 provides in relevant part that “[w]henever a person, who has been detained or  
 23 apprehended for examination of his or mental condition . . . is found to own, have in his or her  
 24 possession or under his or her control, any firearm whatsoever,” the firearm “shall be confiscated  
 25 by any law enforcement agency or peace officer, who shall retain custody of the firearm or other  
 26 deadly weapon.” Cal. Welf. & Inst. Code § 8102(a).

27           <sup>4</sup> The exact nature of and basis for certain of the claims asserted by plaintiff are difficult to  
 28 follow at times.

29           <sup>5</sup> Plaintiff brings several claims against statutes “as-written.” The court hereafter construes these  
 30 claims as facial challenges to the statutes specified therein.

1 and seizures of AR15s, and similar semi-automatic rifles legal under federal law,” consisting of  
2 certain specified statutes “and others, alongside certain regulations,” in violation of the Second  
3 Amendment, against defendants Newsom and Bonta; (2) an as-applied challenge to the “state ban  
4 and seizures of AR15s, and similar semi-automatic rifles legal under federal law,” asserted  
5 against uncertain, meaning not specifically identified, defendants; (3) a facial challenge to  
6 California Welfare and Institutions Code (“WIC”) § 5150, WIC § 8102, and California Penal  
7 Code § 30800, for violation of the Second Amendment, asserted against defendants Newsom and  
8 Bonta; (4) an as-applied challenge to those statutes, asserted against uncertain defendants; (5) a  
9 facial challenge to the “state ban on magazines holdings more than 10 rounds of ammunition,” for  
10 violation of the Second Amendment, asserted against defendants Newsom and Bonta; (6) a facial  
11 and as-applied challenge to the “state ban of modern semi-automatic handguns, unsafe handgun  
12 list, and microstamping,” for violation of the second Amendment, asserted against defendants  
13 Newsom and Bonta; (7) an as-applied challenge to an undefined “policy of ‘gun control’ aimed at  
14 restricting Second Amendment freedoms through a series of incremental measures without the  
15 need for a constitutional amendment,” asserted against uncertain defendants; (8) a facial and as-  
16 applied challenge to unnamed statutes or regulations regulating the purchase of ammunition that  
17 “effectively act as a *de facto* ban on firearms,” asserted against defendants Newsom and Bonta;  
18 (9) an “application for return of firearms” seeking uncertain injunctive relief,<sup>6</sup> asserted against  
19 uncertain defendants; (10) treating undocumented immigrants and the right to abortion more  
20 favorably than gun owners and the Second Amendment, in violation of the Equal Protection  
21 Clause of the Fourteenth Amendment, asserted against uncertain defendants; (11) taking a  
22 “proactive approach to gun control” with regard to plaintiff but not with regard to police officers,  
23 in violation of the Equal Protection Clause of the Fourteenth Amendment, asserted against  
24 defendant Anne Marie Schubert; (12) “not returning AR15s [to] the parties” and destroying

25 <sup>6</sup> As is common to many of plaintiff’s claims asserted in his SAC, it is unclear if plaintiff is  
26 seeking to enjoin the enforcement of certain California statutes listed in his claim 9. For instance,  
27 in his allegations supporting that claim, plaintiff appears to allege that California Penal Code  
28 §§ 33850, 33855, 33860, and 33880 facially violate the Second Amendment. (See Doc. No. 77 at ¶ 204.) However, plaintiff does not include those provisions in the list of statutes and regulations he seeks to enjoin in his prayer for relief. (See *id.* at 44.)

1 firearms in violation of the Second Amendment, asserted against defendants Anne Marie  
2 Schubert and County of Sacramento; (13) a facial challenge to California Code of Civil Procedure  
3 § 1021.11 for violation of the First Amendment, asserted against all defendants; (14) inverse  
4 condemnation in violation of California Constitution Article I, § 19, asserted against defendants  
5 Newsom and Bonta; (15) firearm seizures and warrantless arrest in violation of the Fourth  
6 Amendment, asserted against uncertain defendants; (16) firearm seizures in violation of the Due  
7 Process Clause of the Fifth and Fourteenth Amendments, asserted against uncertain defendants.  
8 (*Id.* at 23–43.)

9 Plaintiff filed his initial complaint in this action on July 5, 2022. (Doc. No. 1.) The  
10 parties stipulated to allow plaintiff to file a first amended complaint (“FAC”) (Doc. No. 14),  
11 which he filed on September 2, 2022 (Doc. No. 16). On January 25, 2024, the previously-  
12 assigned district judge granted the defendants’ motions to dismiss plaintiff’s FAC due to  
13 plaintiff’s failure to comply with Federal Rule of Civil Procedure 8.<sup>7</sup> (Doc. No. 74.) The court  
14 granted plaintiff leave to file his SAC and he did so on February 13, 2024 (Doc. No. 77).

15 On March 11, 2024, defendants Anne Marie Schubert and County of Sacramento filed  
16 their motion to dismiss plaintiff’s SAC for several reasons, including failure to comply with  
17 Rule 8. (Doc. No. 81.) Defendants Bobby Davis, Jonathan P. Hobbs, and City of Elk Grove filed  
18 a notice of joinder in that motion to dismiss on the same day. (Doc. No. 82.) Also on March 11,  
19 2024, defendants Rob Bonta and Gavin Newsom filed their motion to dismiss plaintiff’s SAC,  
20 also for many reasons including failure to comply with Rule 8. (Doc. No. 83.) On March 25,  
21 2024, plaintiff filed his three oppositions to the pending motions. (Doc. Nos. 84, 85, 86.) On  
22 April 1, 2024, defendants Anne Marie Schubert and County of Sacramento filed their reply  
23 thereto (Doc. No. 87); defendants Rob Bonta and Gavin Newsom did likewise on April 2, 2024  
24 (Doc. No. 88).

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28 <sup>7</sup> That same day, this case was reassigned to the undersigned. (Doc. No. 76.)

## **LEGAL STANDARD**

A district court may dismiss a plaintiff’s complaint for failure to comply with Federal Rule of Civil Procedure 8. *See McLaughlin v. McCloud*, No. 20-35339, 2023 WL 2555704, at \*1 (9th Cir. Mar. 17, 2023).<sup>8</sup> Rule 8 requires that a pleading must contain “a short and plain statement of the claim showing that the pleader is entitled to relief . . . .” Fed. R. Civ. P. 8(a)(2). “A complaint should ‘fully set[ ] forth who is being sued, for what relief, and on what theory . . . .’” *Salazar v. Cnty. of Orange*, 564 F. App’x 322, 322 (9th Cir. 2014) (alterations in original) (quoting *McHenry v. Renne*, 84 F.3d 1172, 1177 (9th Cir. 1996)). “The propriety of dismissal for failure to comply with Rule 8 does not depend on whether the complaint is wholly without merit. . . . Rule 8(e), requiring each averment of a pleading to be ‘simple, concise, and direct,’ applies to good claims as well as bad, and is a basis for dismissal independent of Rule 12(b)(6).” *McHenry*, 84 F.3d at 1179.

## ANALYSIS

**A. The Motion to Dismiss Filed by Defendants Rob Bonta and Gavin Newsom**

In their motion to dismiss, defendants Rob Bonta and Gavin Newsom (collectively, “the State defendants”) argue that the claims asserted against them in plaintiff’s SAC must be dismissed for several reasons. (Doc. No. 83-1.)

18 First, the State defendants argue that plaintiff's SAC violates Federal Rule of Civil  
19 Procedure 8. (*Id.* at 10–12.) They contend that plaintiff' SAC “includes a mix of potential claims  
20 along with general grievances against an alleged ‘tapestry’ of laws concerning the purchase and  
21 registration of firearms,” and that plaintiff's “vague and ambiguous assertions require the State  
22 defendants and the Court to sift through extraneous allegations to guess whether relevant and  
23 potentially answerable allegations exist somewhere in the pleadings.” (*Id.* at 10.) The State  
24 defendants contend that plaintiff's allegations leave them to decipher what constitutional  
25 violations have been alleged, against whom, and how they should be addressed. (*Id.* at 11.)

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<sup>8</sup> Citation to the unpublished Ninth Circuit opinions cited in this order is appropriate pursuant to Ninth Circuit Rule 36-3(b).

1           In opposition, plaintiff argues that length alone is not a basis for dismissing a complaint  
 2 and that the “depth and breadth” of his allegations is required by the “multifaceted legal issues”  
 3 and “complex interrelated actions” at issue in this case. (Doc. No. 84 at 4.) Plaintiff, who is  
 4 represented by counsel, further contends that he clearly delineates his claims in his SAC:  
 5 Claims 1, 3, 5, 6, and 8 are brought against “State Defendants”; claims 2, 4, 11, 12, 14, and 16 are  
 6 brought against “Municipal Defendants”; and claims 7, 9, 10, 15, and 16 are brought against both  
 7 “Municipal Defendants” and “State Defendants.” (*Id.* at 5.)

8           As noted, on January 25, 2024, the previously-assigned district judge issued an order  
 9 dismissing plaintiff’s FAC for failure to comply with Rule 8. (*See* Doc. No. 74 at 6.) In that  
 10 order, the court found the following:

11           Plaintiff’s FAC consists of roughly thirty (30) pages of introduction,  
 12 historical background of gun laws, regulations, and policies in  
 13 California, the United States, and the Philippines, and scattered facts  
 14 surrounding the underlying action. Fifty (50) pages of the FAC  
 15 contain the thirteen (13) claims for relief. The FAC fails to make  
 16 clear connections between specific allegations and individual  
 17 Defendants and does not “provide defendants notice of what legal  
 18 claims are asserted against which defendants.”

19           (*Id.*) (*quoting McHenry*, 84 F.3d at 1175–76).

20           In his SAC—now consisting of 45 pages and 16 claims for relief—plaintiff has removed  
 21 most of the irrelevant introductory allegations as well as the allegations regarding historical gun  
 22 regulations in various jurisdictions. (*See* Doc. No. 77 at ¶¶ 1–118.) Plaintiff also includes more  
 23 detail regarding which specific statutes he is challenging as unconstitutional (*see, e.g., id.* at  
 24 ¶ 130), though many of his claims remain extremely vague in this regard.<sup>9</sup>

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25           <sup>9</sup> The State defendants briefly argue that certain of plaintiff’s claims, such as claim 10, remain  
 26 “unintelligible” and thereby violate Rule 8. (Doc. No. 83-1 at 11.) In claim 10, as best the court  
 27 can tell, plaintiff alleges a violation of the Equal Protection Clause of the Fourteenth Amendment  
 28 on the grounds that some or all defendants treat undocumented immigrants better than they treat  
 gun owners, and on the grounds that some or all defendants care more about protecting the right  
 to an abortion than about protecting the Second Amendment. (*See* Doc. No. 77 at ¶¶ 213–28.)  
 Plaintiff’s counsel is cautioned that this claim is plainly inadequately pled and would be subject to  
 dismissal under Rule 12(b)(6) if the court could be certain which defendants the claim is asserted  
 against. However, as will be discussed in this order, because the court cannot even discern which  
 defendants claim 10 is asserted against, the court finds dismissal under Rule 8 to be more  
 appropriate.

1        But while plaintiff has added some degree of clarity to his claims, he has removed clarity  
2 in other ways. Specifically, the court cannot determine which claims in plaintiff's SAC are  
3 asserted against which defendants. Seven of the claims (claims 2, 4, 7, 9, 10, 15, and 16) are  
4 brought for "Declaratory and Injunctive Relief and Monetary Damages, Except to Defendants  
5 Newsom and Bonta Whereby Only Equitable Relief Is Sought." (*See id.* at 24, 26, 30, 33, 34,  
6 42.) In the view of the undersigned, these descriptions might suggest that these claims are  
7 asserted against all defendants—though the court notes that this assumption is undercut by  
8 plaintiff's thirteenth claim, which is expressly asserted against "All Defendants." (*Id.* at 39.)

9        However, in attempting to clarify which claims are asserted against which defendants in  
10 his opposition to the State defendants' motion to dismiss, plaintiff further muddies the waters.  
11 There he states that claims 2 and 4 are "relevant to Municipal Defendants," while claims 7, 9, 10,  
12 15, and 16 are asserted against "Municipal Defendants" and "State Defendants."<sup>10</sup> (Doc. No. 84  
13 at 5.) Plaintiff does not explain how the State defendants could reasonably discern that claims 7,  
14 9, 10, 15, and 16 are asserted against them while claims 2 and 4 are not, when all seven claims are  
15 described in the same manner quoted above. Indeed, plaintiff's contention in this regard is flatly  
16 contradicted by the text of claims 2 and 4, in which the State defendants are in fact the only  
17 defendants identified by name. Plaintiff's contention is also contradicted by his own opposition:  
18 He first states that claim 16 is asserted only against "Municipal Defendants," then in the very next  
19 sentence states that claim 16 is asserted against both "Municipal Defendants" and "State  
20 Defendants." (*See Doc. No. 84 at 5.*) In short, it appears even plaintiff, let alone the State

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27       <sup>10</sup> As will be discussed more fully later in this order, plaintiff does not define which persons or  
28 entities are included in "Municipal Defendants" or "State Defendants" anywhere in his  
opposition.

1 defendants, “cannot determine from the complaint who is being sued, for what relief, and on what  
 2 theory . . . .” *McHenry*, 84 F.3d at 1178.<sup>11</sup>

3 The court concludes from the above that plaintiff’s SAC does not properly put the State  
 4 defendants on notice of what claims are being asserted against them in violation of Rule 8. *See*  
 5 *Mazgaj v. Galvez*, No. 24-cv-00776-JAH-AHG, 2025 WL 642016, at \*5 (S.D. Cal. Feb. 27,  
 6 2025) (“As written, the Complaint impermissibly asks the Court and Defendants to piece together  
 7 the claims alleged and speculate as to which of these claims pertain to which Defendant. This  
 8 structure and form of pleading is forbidden by Rule 8.”). Accordingly, the motion to dismiss the  
 9 claims asserted in plaintiff’s SAC as to defendants Newsom and Bonta will be granted. *See id.* at  
 10 \*4–5 (granting the defendant’s motion to dismiss for failure to comply with Rule 8 where the 46-  
 11 page complaint “fail[ed] to make it clear which claims are asserted against which Defendants”);  
 12 *McHenry*, 84 F.3d at 1176 (“This time, the claims for relief designated legal theories on which the  
 13 relief was based, but the plaintiffs did not specify which defendants were liable on which of the  
 14 claims. Instead, each claim says “defendants’ ” [sic] conduct violated various rights of plaintiffs,  
 15 without saying which defendants.”); *Salazar*, 564 F. App’x at 322 (“As the district court correctly  
 16 held, a fatal flaw in plaintiff’s Third Amended Complaint was that it ‘impermissibly lump[ed]  
 17 together claims and defendants.’ This left ‘Defendants guessing [which] claim [wa]s brought  
 18 against them.’”) (alterations in original).

19 **B. The Motion to Dismiss Filed by Defendants Schubert and County of Sacramento**

20 Like the State defendants, defendants Anne Marie Schubert and County of Sacramento  
 21 (collectively, “defendants Schubert and County”) move to dismiss plaintiff’s complaint for a  
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23 <sup>11</sup> Of plaintiff’s claims asserted clearly against defendants Newsom and Bonta, almost all are also  
 24 subject to dismissal under Rule 8. For instance, plaintiff asserts claims 1, 3, 6, and 8 only against  
 25 defendants Newsom and Bonta. (Doc. No. 77 at 23, 25, 28.) Yet plaintiff’s allegations are  
 26 unclear as to which statutes, regulations, or actions are being challenged as unconstitutional in  
 27 these claims. (*See id.* at ¶¶ 123 (challenging “California’s Penal Codes §§ 30600(a), 30605(a),  
 28 and others, alongside certain regulations”), 135–36 (challenging specific statutes as well as  
 defendants’ “customs, policies, and practices that violate the Second and Fourteenth  
 Amendments”), 168 (challenging “[t]he regulatory scheme, including Cal. Penal Code §§ 16380,  
 16900, 31900 et seq., and specific regulations”), 189–93 (challenging vague “restrictions [that]  
 effectively act as a *de facto* ban on firearms”)).

1 variety of reasons including failure to comply with Rule 8. (*See* Doc. No. 81-1 at 9 n.2.) The  
 2 court hereby incorporates the discussion set forth above as to how most of plaintiff's claims do  
 3 not adequately inform defendants Schubert and County whether those claims are asserted against  
 4 them.

5 Additionally, while plaintiff contends that claims 2, 4, 7, 9, 10, 15, and 16 are asserted  
 6 against "Municipal Defendants," he does not define the phrase "Municipal Defendants" anywhere  
 7 in his briefing or in his SAC.<sup>12</sup> The court and defendants are left to assume that "Municipal  
 8 Defendants" refers to defendants Schubert and County, but this assumption has its own  
 9 difficulties. For instance, plaintiff contends in his opposition that claim 11 is asserted against  
 10 "Municipal Defendants" (Doc. No. 84 at 5), but in his SAC that claim is asserted only against  
 11 defendant Schubert (Doc. No. 77 at 36).<sup>13</sup> Perhaps more obviously, defendant County of  
 12 Sacramento is not a municipality, nor is defendant Schubert—who is alleged to be the  
 13 Sacramento County District Attorney<sup>14</sup> (*id.* at ¶ 23)—a municipal employee.

14 Finally, while plaintiff's claim 12 is clearly asserted against defendants Schubert and  
 15 County in his SAC, the factual basis underlying this claim—for a "custom, policy and practice" in  
 16 violation of the Second Amendment—is unclear from the allegations of plaintiff's SAC. (*See id.*  
 17 at 38.) Rather, plaintiff impermissibly relies on "shotgun pleading" by incorporating all 240  
 18 preceding factual allegations and then alleging his claim in almost entirely conclusory fashion.  
 19 (*See id.* at ¶ 241); *see also* *Kittel v. City of Oxnard*, No. 17-cv-06709-MWF-GJS, 2017 WL  
 20 10543341, at \*6 (C.D. Cal. Dec. 6, 2017) ("[E]ach claim incorporates by reference hundreds of  
 21 allegations, many of which are clearly irrelevant to the claim at issue. Although incorporation by

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 23 <sup>12</sup> In his SAC, plaintiff refers at times to "City and County defendants" but does not define this  
 24 phrase either. (*See, e.g.*, Doc. No. 77 at ¶ 186.)

25 <sup>13</sup> At the same time, the court notes that plaintiff alleges in support of claim 11 that "defendants"  
 26 are violating his rights afforded by the Equal Protection Clause (Doc. No. 77 at ¶ 236), even  
 27 though plaintiff states in his SAC that claim 11 is asserted only against one defendant, Schubert.  
 For that matter, the court additionally notes that plaintiff refers repeatedly to "plaintiffs" in the  
 plural in his SAC. (*See id.* at ¶¶ 40, 49, 110.)

28 <sup>14</sup> See footnote 2, above.

reference is common practice, ‘allegations . . . which incorporate each preceding paragraph, regardless of relevancy, are not permitted.’ . . . This style of ‘shotgun’ pleading violates Rule 8.”); *Ceragioli v. Butte Cnty.*, No. 2:23-cv-01113-TLN-DMC, 2024 WL 1311901, at \*3 (E.D. Cal. Mar. 26, 2024) (granting the defendants’ motions to dismiss where the plaintiffs’ complaint was “rife with legal conclusions cast in the form of factual allegations” and where those “‘allegations’ are later incorporated by reference within the four causes of action that are asserted against Defendants without any designation of which facts support each claim for each of the Defendants,” and concluding that “[t]his lack of clarity permeates the Complaint and is a sufficient basis for dismissal”). The only facts specifically alleged in support of claim 12 are so vague as to fail to provide defendants Schubert and County with notice of their purported conduct being challenged. (See Doc. No. 77 at ¶¶ 244–45) (“Defendant District Attorney has a custom, policy, and/or practice of not returning AR15s the parties [sic] in violation of the Second Amendment; in addition to having the arms subject to destruction pursuant to Cal. Pen. Code § 30800 . . . . Defendant District Attorney made a policy decision to declare protected arms a nuisance and to have them destroyed and that ‘interest of justice’ excludes the Second Amendment.”).

Accordingly, the motion to dismiss the claims in plaintiff’s SAC as to defendants Schubert and County for failure to comply with Rule 8 will also be granted.

**C. The Motion to Dismiss Filed by Defendants Bobby Davis, Jonathan P. Hobbs, and City of Elk Grove**

Defendants Bobby Davis, Jonathan P. Hobbs, and City of Elk Grove (collectively, “defendants Davis, Hobbs, and City”) filed a notice of joinder in the motion to dismiss filed by

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1 defendants Schubert and County. (Doc. No. 82.)<sup>15</sup>

2 The court incorporates the discussion above and notes certain additional Rule 8  
 3 deficiencies as to plaintiff's allegations with respect to these defendants. The failure to define  
 4 any of the terms used to describe various sets of defendants in this action—e.g., “Municipal  
 5 Defendants”—is particularly egregious with respect to defendants Davis, Hobbs, and City given  
 6 the minimal factual allegations regarding their conduct included in plaintiff's SAC. The  
 7 allegations mentioning defendant Hobbs' conduct are, in full:

8 Defendant Jonathan P. Hobbs is the City Attorney, acting as the  
 9 general legal counsel to the City of Elk Grove. He has endorsed and  
 10 followed Newsom and Bonta's gun confiscation and enforcement  
 regime going after law abiding gun owners through both the civil and  
 criminal process. . . .

11 The City of Elk Grove and its officials, including Police Chief Bobby  
 12 Davis and City Attorney Jonathan P. Hobbs, are liable for their roles  
 13 in enforcing the state's gun confiscation regime. Their actions and  
 policies, in alignment with state directives, have directly impacted  
 the plaintiff, leading to the seizure of his firearms. . . .

14 Unbeknownst to Plaintiff, on January 25, 2021, a Petition for Judicial  
 15 Determination Re: Return of Firearms Welfare & Institutions Code  
 16 section 8102 was filed by defendant Jonathan P. Hobbs as the City  
 17 of Elk Grove Attorney, captioned *City of Elk Grove vs. Euginie Abrera*, Sacramento Superior Court case number 34-2021-  
 20000745.

18 (Doc. No. 77 at ¶¶ 22, 30, 63.)

19 Moreover, apart from this paragraph describing defendant Davis's liability in conclusory  
 20 terms, the only factual allegation mentioning defendant Davis in the 289-paragraph complaint is  
 21 the following: “Defendant Bobby Davis is the Chief of the Elk Grove Police Department.” (*Id.*

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22 <sup>15</sup> Defendants Davis, Hobbs, and City do not expressly raise the issue of Rule 8 in their notice of  
 23 joinder, though they do “adopt all arguments, facts, and points and authorities submitted by  
 24 [defendants Schubert and County] as though [defendants Davis, Hobbs, and City] had set forth all  
 25 such matters in full.” (Doc. No. 82 at 2.) In any event, the court may dismiss the claims in  
 26 plaintiff's SAC as to defendants Davis, Hobbs, and City under the circumstances present here.  
 27 See *Mazgaj v. Galvez*, No. 24-cv-00776-JAH-AHG, 2025 WL 642016, at \*3 n.5, \*5 (S.D. Cal.  
 28 Feb. 27, 2025) (dismissing the plaintiff's complaint as to all defendants for failure to comply with  
 Rule 8, even though only one defendant filed a motion to dismiss, because “the Court may  
 dismiss the complaint as to all Defendants where ‘. . . such defendants are in a position similar to  
 that of moving defendants or where claims against such defendants are integrally related’”)  
 (quoting *Silverton v. Dep't of Treasury of U.S. of Am.*, 644 F.2d 1341, 1345 (9th Cir. 1981)).

1 at ¶ 21.) Similarly, plaintiff's only factual allegations regarding defendant City are the following:  
2 "Defendant City of Elk Grove [ . . . ] is a municipality chartered by the State of California. It has  
3 endorsed and followed Newsom and Bonta's gun confiscation and enforcement regime going  
4 after law abiding gun owners through both the civil and criminal process." (*Id.* at ¶ 20.)

5 In sum, plaintiff has not provided any clarity in his SAC or his opposition to the pending  
6 motions regarding which of his claims are asserted against defendants Davis, Hobbs, and City,  
7 nor can these defendants glean any such clarity from the SAC given the total absence of factual  
8 allegations therein regarding their conduct. These defendants cannot have any idea if they are  
9 "being sued, for what relief, and on what theory" under these circumstances. *McHenry*, 84 F.3d  
10 at 1178. Accordingly, the claims in plaintiff's SAC as to defendants Davis, Hobbs, and City will  
11 be dismissed for failure to comply with Rule 8.

12 **D. Leave to Amend**

13 The court will grant plaintiff's request for leave to amend. (*See, e.g.*, Doc. No. 84 at 10.)  
14 Plaintiff can certainly remedy some of the Rule 8 deficiencies in his pleading, beginning with  
15 clearly delineating which claims are asserted against which defendants. The court also notes the  
16 lack of clarity with which plaintiff has described which statutes he is challenging as  
17 unconstitutional and under which of his claims these challenges arise. However, plaintiff is  
18 cautioned that the court is unlikely to entertain further requests for leave to amend. *Cf. Hensley v.*  
19 *ZGF Architects, Inc.*, No. 21-35965, 2023 WL 3034816, at \*1 (9th Cir. Apr. 21, 2023) ("The  
20 district court properly dismissed Hensley's action because after repeated amendment, Hensley's  
21 operative amended complaint failed to comply with Rule 8."). To that end, plaintiff is advised  
22 that any third amended complaint he may elect to file should address any and all potential  
23 deficiencies identified by the various defendants in their motions to dismiss, including arguments  
24 the court did not address in this order. Additionally, plaintiff is encouraged to further "focus on  
25 linking [his] factual allegations to actual legal claims." *McHenry*, 84 F.3d at 1176.

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## CONCLUSION

For the reasons explained above,

1. The motion to dismiss plaintiff's second amended complaint filed by defendants Anne Marie Schubert and County of Sacramento (Doc. No. 81), in which defendants Bobby Davis, Jonathan P. Hobbs, and City of Elk Grove filed a notice of joinder (Doc. No. 82) is GRANTED;
  2. The motion to dismiss plaintiff's second amended complaint filed by defendants Rob Bonta and Gavin Newsom (Doc. No. 83), is GRANTED; and
  3. Within twenty-one (21) days of the date of entry of this order, plaintiff shall file either a third amended complaint or a notice of his intent not to do so.

IT IS SO ORDERED.

Dated: March 25, 2025

Dale A. Drozd  
DALE A. DROZD  
UNITED STATES DISTRICT JUDGE